In a letter to ICC Prosecutor: Time to investigate Israeli crimes in Palestine, time for justice

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Over 180 Palestinian, regional and international human rights coalitions, organisations, and individuals today called on the Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, to investigate Israeli crimes in Palestine.

In a joint open letter to the ICC Prosecutor, the Palestinian, regional, and international coalitions, organisations, and individuals, led by and including Palestinian coalitions representing over 200 Palestinian civil society organisations, said they overwhelmingly support the Prosecutor’s findings submitted to the Pre-Trial Chamber.

“We urge that in light of the pervasive climate of impunity, which has prevailed for over five decades in the occupied Palestinian territory, that perpetrators of war crimes and crimes against humanity committed in Palestine must be held accountable at the International Criminal Court,” they said in the letter.

On 20 December 2019, following almost five years of preliminary examination, the Prosecutor of the International Criminal Court submitted to the Pre-Trial Chamber a request for a ruling on the Court’s territorial jurisdiction in Palestine indicating that “war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip” and that she had “identified potential cases arising from the situation which would be admissible.” Further, the Prosecutor was satisfied that the Court’s territorial jurisdiction extended to the “Palestinian territory occupied by Israel” since June 1967, “namely the West Bank, including East Jerusalem, and Gaza.”

On 28 January 2020, the Pre-Trial Chamber invited amicus curiae submissions on the question of territorial jurisdiction to be submitted to the Court. This led to the submission of 43 amicus curiae briefs, comprising eight submissions from States parties, including the State of Palestine, and a further two from intergovernmental organisations. Of these, the League of Arab States, representing 22 States, and the Organization of Islamic Cooperation, representing some 57 States, all of which recognise the State of Palestine and its exclusive sovereignty, submitted in support of the Prosecutor’s findings. These States represent only a fraction of the 137 States that bilaterally recognise the State of Palestine.

Academics, bar associations, including the Palestinian Bar Association, and non-governmental organisations filed compelling amicus curiae submissions in support of the Prosecutor’s findings.

Palestinian human rights organisations Al-Haq, Al Dammeer Association for Human Rights, the Palestinian Centre for Human Rights (PCHR), and Al Mezan Center for Human Rights, meanwhile, have urged an immediate and comprehensive criminal investigation to bring an end to the pervasive climate of impunity enjoyed by Israeli perpetrators of war crimes and crimes against humanity, and that an investigation by the International Criminal Court encompass all parts of the occupied Palestinian territory.

“While the above described amici filings demonstrate concrete and emphatic support for the Prosecutor’s findings, we are cognizant of the fact that there is even broader and more widespread support from within Palestine, regionally, and internationally for an investigation by the International Criminal Court into war crimes and crimes against humanity committed in the occupied Palestinian territory, including crimes committed against civilian health workers, journalists, and children,” said the letter.

“Moreover, we are concerned that the amici input from European States in opposition to the Prosecutor, fails to represent the positions of civil society organisations from those countries, who have long supported the work of Palestinian civil society organisations in their pursuit of human rights, justice, the rule of law, and accountability at the International Criminal Court. Accordingly, we submit this letter for your consideration ahead of your 30 April 2020 filing to the Pre-Trial Chamber.”

The organisations, coalitions, and individuals said they “emphatically support the Prosecutor’s finding that there is a reasonable basis to believe that war crimes and crimes against humanity have been and are being committed in the occupied Palestinian territory, that the International Criminal Court can properly exercise its jurisdiction over the entire territory of the State of Palestine, and fully support without any further undue delay, the opening by the International Criminal Court of a full and thorough investigation into international crimes committed in the West Bank, including East Jerusalem, and the Gaza Strip.”

For the Palestinian people, they said, “the International Criminal Court is truly a 'court of last resort.’ It is time for justice. It is time for an investigation.”